

PROTOCOL
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE DOMINICAN REPUBLIC
TO THE AGREEMENT CONCERNING MARITIME COUNTER-DRUG
OPERATIONS

The Government of the United States of America and the Government of the Dominican Republic, hereinafter "the Parties":

Recalling the Agreement Between the Government of the United States of America and the Government of the Dominican Republic Concerning Maritime Counter-drug Operations, signed at Santo Domingo, March 23, 1995, hereinafter "the Agreement";

Desiring to supplement the Agreement in order further to enhance cooperation in the suppression of illicit traffic by sea and air;

Considering the continuing firm commitment of both Governments to wage an aggressive campaign against drug trafficking;

Mindful of the general international law with respect to the use of force against civil aircraft in flight as reflected in the International Convention on Civil Aviation, adopted at Chicago, December 7, 1944, and Article 3 bis thereto, adopted at Montreal May 10, 1984;

Have agreed as follows:

ARTICLE I

1. The following subparagraph c. is added to paragraph 3 of the Agreement, as follows:

"c. For the purposes of this Agreement, the term "U.S. vessels" includes ships of other States clearly marked and identifiable as being on government service, as may be agreed upon by the Parties in writing."

2. The following paragraphs 8 bis and 8 ter is added to the Agreement, as follows:

"8 bis. The Government of the Dominican Republic shall permit aircraft of the Government of the United States of America (hereinafter, "U.S. aircraft") when engaged in law enforcement operations or operations in support of law enforcement activities, subject to paragraph 8 ter, to:

- a. Overfly its territory and waters; and

b. Subject to the laws of each Party, with due regard for its laws and regulations for the flight and maneuver of aircraft, relay orders from its competent authorities to suspect aircraft to land in the territory of the Dominican Republic."

"8 ter. The Government of the United States of America shall, in the interest of flight safety, observe the following procedures for notifying appropriate Dominican authorities of such overflight activity by U.S. aircraft:

a. In the event of planned bilateral or multilateral law enforcement operations, the Government of the United States of America shall provide reasonable notice and communications channels to the appropriate Dominican aviation authorities of planned flights by its aircraft over Dominican territory or waters.

b. In the event of unplanned operations, which may include the pursuit of suspect aircraft into Dominican airspace pursuant to this Agreement, the law enforcement and appropriate aviation authorities of the Parties may exchange information concerning the appropriate communications channels and other information pertinent to flight safety.

c. Any aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this Agreement shall comply with such air navigation and flight safety rules as may be required by Dominican aviation authorities, and with any written operating procedures developed for flight operations within its airspace under this Agreement."

3. The following paragraph 10 bis is added to the Agreement, as follows:

"10 bis. In cases arising in the contiguous zone of a Party, not involving suspect vessels fleeing from the waters of that Party or suspect vessels claiming nationality in that Party, in which both Parties have the authority to exercise jurisdiction to prosecute, the Party which conducts the boarding and search shall have the right to exercise jurisdiction."

4. Paragraph 14 of the Agreement is amended to read:

"14. Each Party shall ensure that its law enforcement officials, when conducting boardings and searches and air intercept activities pursuant to this Agreement, act in accordance with the applicable national laws and policies of their Government and with international law and accepted international practices."

5. Paragraph 15 of the Agreement shall be amended to read:

"15. Boardings and searches pursuant to this Agreement shall be carried out by uniformed officials from ships and aircraft of the Parties clearly marked and identified as being on government service, and from such ships of other States as may be agreed upon by the Parties in writing."

6. The following paragraph 15 bis is added to the Agreement, as follows:

"15 bis. While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft."

7. Paragraph 16 of the Agreement is amended to read as follows:

"16. All use of force pursuant to this Agreement shall be in strict accordance with applicable laws and policies of the respective Party and shall in all cases be the minimum reasonably necessary under the circumstances, except that neither Party shall use force against civil aircraft in flight. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party."

8. Paragraph 17 of the Agreement is amended to read:

"17. To facilitate implementation of this Agreement, each Party shall ensure the other Party is fully informed concerning its respective applicable laws and policies, particularly those pertaining to the use of force. Each Party has the corresponding responsibility to ensure that all of its law enforcement officials engaging in law enforcement operations pursuant to this Agreement are knowledgeable concerning the applicable laws and policies of both Parties. When conducting air intercept activities pursuant to this Agreement the Parties shall not endanger the lives of persons on board and the safety of civil aircraft."

9. The following paragraph 19 bis is added to the Agreement, as follows:

"19 bis. The law enforcement authority of the Dominican Republic may request, and the United States Coast Guard may authorize, U.S. Coast Guard law enforcement officials to provide technical assistance to law enforcement officials of the Dominican Republic in their boarding and investigation of suspect vessels located in the territory or waters of the Dominican Republic."

10. The following paragraph 19 ter is added to the Agreement:

"19 ter. The Government of the Dominican Republic may permit, after notification to and coordination with appropriate officials, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement:

a. the temporary mooring of United States law enforcement vessels at national ports in accordance with international norms for the purposes of resupplying fuel and provisions, medical assistance, minor repairs, weather and other logistics and related purposes;

- b. entry of additional United States law enforcement officials;
- c. entry of suspect vessels not flying the flag of either Party escorted from waters seaward of either Party' territorial sea by United States law enforcement officials;
- d. United States law enforcement aircraft to land and temporarily remain at international airports for the purposes of resupplying fuel and provisions, medical assistance, minor repairs, weather, and other logistics and related purposes;
- e. United States law enforcement aircraft to disembark and embark United States law enforcement officials, including additional law enforcement officials;
- f. the escort of persons other than Dominican nationals, from suspect vessels escorted by United States law enforcement officials through and exiting out of Dominican territory; and
- g. United States law enforcement aircraft to disembark, embark, and depart out of Dominican territory with persons, including migrants, other than Dominican nationals, from suspect vessels."

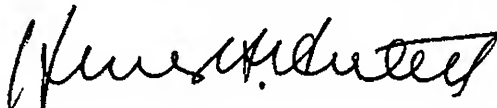
ARTICLE II

1. This Protocol shall enter into force upon signature and shall remain in force concurrent with the Agreement.
2. Upon entry into force of this Protocol, this Protocol shall replace the overflight authorization for United States anti-narcotics operations contained in State Secretary for the Armed Forces letter No. 32045 of November 9, 2000.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Washington the 20th day of May 2003, in the English and Spanish languages, each text being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE DOMINICAN REPUBLIC:

